

**UNITED STATES TAX COURT**  
**WASHINGTON, DC 20217**

**KVC**

FRANK SAWYER TRUST OF MAY 1992,	)	
TRANSFEE, CAROL S. PARKS, TRUSTEE,	)	
	)	
Petitioner(s),	)	
	)	
v.	)	Docket No. 5526-07.
	)	
COMMISSIONER OF INTERNAL REVENUE,	)	
	)	
Respondent	)	

**ORDER**

On July 22, 2014, after the Court's Supplemental Memorandum Findings of Fact and Opinion (T.C. Memo. 2014-128), respondent filed a Motion for Reconsideration of Findings or Opinion Pursuant to Rule 161. By Order dated July 24, 2014, the Court directed petitioner on or before August 25, 2014, to file a response to respondent's above-referenced motion. On August 21, 2014, petitioner filed a Response to Motion for Reconsideration of Findings or Opinion Pursuant to Rule 161.

The transfer to petitioner was not actually fraudulent as we found in the Court's Memorandum Findings of Fact and Opinion (T.C. Memo. 2011-298) and was accepted as such by the United States Court of Appeals for the First Circuit. For a transfer to be constructively fraudulent, the transferor must receive less than reasonably equivalent value for it. The trust gave value for the transfer, but it was not reasonably equivalent value, so the transfer was constructively fraudulent. Mass. Ann. Laws ch. 109A, sec. 8. However, only the portion of the transfer that exceeds the value of the assets transferred was constructively fraudulent. Therefore, only that portion is subject to the Mass. UFTA and transferee liability. Mass. Ann. Laws ch. 109A, sec. 8 (providing relief for creditors only for "a transfer or obligation under this chapter" (i.e. a fraudulent transfer); I.R.C. sec. 6901. In other words, a transferee's liability is capped at the amount of the constructively fraudulent transfer it received.

**SERVED Aug 29 2014**

Allowing respondent to collect penalties would subject petitioner to transferee liability in excess of the amount of the fraudulent transfer it received, and consequently in excess of the maximum recovery provided by the UFTA.

“Reconsideration under Rule 161 serves the limited purpose of correcting substantial errors of fact or law”. Estate of Quick v. Commissioner, 110 T.C. 440, 441 (1998). The Court will grant a motion for reconsideration only if the moving party shows unusual circumstances or substantial error. Respondent has failed to demonstrate error, and it is

ORDERED that respondent’s Motion for Reconsideration of Findings or Opinion Pursuant to Rule 161, filed July 22, 2014, is denied.

**(Signed) Joseph Robert Goeke**  
**Judge**

Dated: Washington, D.C.  
August 28, 2014